

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 72, 74 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otaigbe et al (6,533,563) in view of Schoenherr et al (5,910,558) or EP 1 170 318.

Otaigbe et al disclose a process of forming particles by melting polymeric material, gas atomizing the material to form droplets, and cooling the droplets.

See column 1, lines 50-54; column 2, lines 10-24; and column 2, lines 35-46.

The particles are separated by size (fraction spectrum). See column 4, lines 33-37. The atomization process is controlled to form particles that are spheres, fibers or whiskers. The particles are in the size range of 5-200 μm (column 2,

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lines 52-53). Use of a hot gas in atomizing would have been obvious to one of ordinary skill in the art to prevent the polymer from sticking to the nozzle and to allow for formation of spherical droplets before cooling. It would have been obvious to one of ordinary skill in the art to process aromatic polyether ketone as the polymeric material in the process of Otaigbe because aromatic polyether ketone is melt processible as evidenced by Schoenherr et al (column 10, lines 1-6) and EP 1 170 318 (abstract; page 3, line 30).

Allowable Subject Matter

4. Claim 73 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 76-79 are allowed.

Response to Amendment

6. Applicant's arguments filed 11/30/2011 have been fully considered but they are not persuasive. Applicants assert that the references do not suggest the use of the powder in production of a three dimensional structure. The use of the powder is not part of the process of making the powder to which the claims are drawn and therefore not a patentable distinction. Applicant contends that the powder must be in the range of 20-150 μm . Both Otaigbe et al (5-200 μm) and Schoenherr et al (2-70 μm) suggest particle within this range.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY LYNN F. THEISEN whose telephone number is (571)272-1210. The examiner can normally be reached on Thursday and Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Del Sole can be reached on 571-272-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MARY LYNN F THEISEN/
Primary Examiner
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